

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
(Richmond Division)

**In re:**

**CIRCUIT CITY STORES, INC., et al.,** \* **Case No: 08-35653-KRH**  
**Debtors,** \* **Chapter 11**  
\* **(Jointly Administered)**

\* \* \* \* \*

**MOTION TO PERMIT THE FILING OF A CLASS PROOF OF CLAIM**  
**WITH SUPPORTING MEMORANDUM**

Movants Daniel E. Weidler, Michael F. Yezback, Eloise Garcia, and Angie Duron (“Movants” or “Plaintiffs”), by and through their undersigned attorneys, and pursuant to Rules 7023 and 9014 of the Federal Rules of Bankruptcy Procedure, file this Motion to Permit the Filing of a Class Proof of Claim (the “Motion”) seeking entry of an order allowing the Movants to file one (1) Proof of Claim for the a certain class of plaintiffs (the “Weidler Settlement Class”), as certified in the class action proceeding in the Los Angeles County Superior Court, Case No. BC369011, styled *Daniel E. Weidler, Michael F. Yezback, and Eloise Garcia v. Circuit City Stores, Inc.* The grounds for the Motion are as follows:

1. The Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 and 1334.
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief sought herein are, *inter alia*, §§ 105, 361 and 362(d)(1) of the Bankruptcy Code, and Bankruptcy Rules 4001 and 9014.

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**Parties**

4. On November 10, 2008 (the “Petition Date”), the Debtor and several related entities filed Petitions under Chapter 11 of the Bankruptcy Code.

5. The Debtor is in possession of its assets and is acting as a “debtor-in-possession” under 11 U.S.C. § 1107.

6. The Movants are the class representatives of a 208 member class of former employees of the Debtor.

**The Litigation**

7. On April 4, 2007, the Plaintiffs filed a proposed class action complaint in Los Angeles County Superior Court, Case No. BC369011, styled *Daniel E. Weidler, Michael F. Yezback, and Eloise Garcia v. Circuit City Stores, Inc.* (the “California Litigation”). Plaintiffs filed a First Amended Complaint on September 4, 2008 in the California Litigation.

8. In September 2008, Plaintiffs and the Debtor reached a settlement of the California Litigation, which was documented in a Joint Stipulation of Settlement Agreement and Release of Class Action Claims (the “Settlement Agreement”).

9. On or about September 25, 2008, the Los Angeles County Superior Court entered an Order Granting Preliminary Approval of Class Action Settlement and set a hearing for December 12, 2008 at 9:00 a.m. (PST) to consider final approval of the Settlement Agreement.

10. On December 3, 2008, this Court entered a Stipulation and Order Granting Motion for Relief from Stay permitting the settlement approval process to be completed in the California Litigation.

11. On or about December 12, 2008, the Los Angeles County Superior Court held a hearing to consider the final approval of the Settlement Agreement and, on the same date, entered an Order Granting Final Approval of Class Action Settlement and Final Judgment in the California Litigation. A genuine copy of the Order is attached hereto as Exhibit 1.

**Relief Requested**

12. Movants seek the entry of an order permitting them to file one (1) Proof of Claim on behalf Weidler Settlement Class. When considering this issue, Courts routinely permit a class of plaintiffs to file a single proof of claim. See, e.g., Trebol Motors Distributor Corp. v. Bonilla (In re Trebol Motors Distributor Corp.), 220 B.R. 500 (B.A.P. 1<sup>st</sup> Cir. 1998) (holding that a pre-petition certified class holding a final judgment against the debtor could file a single proof of claim); Collier on Bankruptcy, § 10-7023 (15<sup>th</sup> Edition) (summarizing cases and stating that “the prevailing view” is for the allowance of class claims). In this case, the rationale for filing a single proof of claim is straightforward – the Weidler Settlement Class is entitled to be paid in this bankruptcy case as an entity pursuant to the Settlement Agreement, which has been finally approved pursuant to applicable California law. Furthermore, as found by the Los Angeles County Superior Court in the California Litigation, all elements requiring class certification under Rule 7023 exist. No reason justifies requiring the individual class members to each file a proof of claim and, accordingly, the Court should permit the Movants to file a single proof of claim on behalf of the Weidler Settlement Class.

WHEREFORE, the Movants request an Order:

(a) Permitting the Movants to file a single proof of claim on behalf of the Weidler Settlement Class; and

(b) Granting such other relief as this Court deems just and proper.

Dated: January 6, 2009

Respectfully submitted,

WHITEFORD, TAYLOR & PRESTON,  
LLP,

/s/ Christopher A. Jones

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of January, 2009, a copy of the foregoing Motion was filed and served via the Court's Electronic Case Filing System on all parties receiving such notice and on all parties on the attached Service List.

/s/ Christopher A. Jones  
Counsel